

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEVIN JOSEPH BOONE,

Defendant.

Case No. 3:19-cr-00024-SLG

**ORDER RE FINAL REPORT & RECOMMENDATION TO DENY IN PART AND
GRANT IN PART DEFENDANT'S MOTION TO SUPPRESS (DOC. 20)**

Before the Court at Docket 20 is Defendant Levin Joseph Boone's Motion to Suppress Arrest and Seizure of Evidence. The government filed a response in opposition at Docket 23.

The motion was referred to Magistrate Judge Deborah M. Smith. On June 17, 2019, Judge Smith held a hearing on the motion.¹ Judge Smith issued her Initial Report and Recommendation at Docket 44. Mr. Boone filed objections at Docket 45, to which the government filed a response at Docket 46. At Docket 48, Judge Smith issued her Final Report and Recommendation, in which she recommended that the motion be granted in part and denied in part.

The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1). That statute provides that a district court "may accept, reject, or modify, in whole or in

¹ Docket 36 (Minute Entry).

part, the findings or recommendations made by the magistrate judge.”² The statute provides that the district judge “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” As to those topics on which no objections are filed, “[n]either the Constitution nor [28 U.S.C. § 636(b)(1)] requires a district judge to review, de novo, findings and recommendations that the parties themselves accept as correct.”³

The Court has considered, on de novo review, the motion and the objections filed by Mr. Boone, and adopts and accepts the Magistrate Judge’s analysis in its entirety as set forth in the Final Report and Recommendation, including the analysis of Mr. Boone’s objections to the initial report. In light of the foregoing, Mr. Boone’s Motion to Suppress Arrest and Seizure of Evidence at Docket 20 is GRANTED with respect to the evidence of the methamphetamine in the blue and green containers and DENIED with respect to the evidence of the firearm.

DATED this 16th day of August, 2019 at Anchorage, Alaska.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE

² 28 U.S.C. § 636(b)(1).

³ *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”).